THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18997 of 2006

27.4.2007

Between:

Sura Chinnamma, W/o.Pandu Ranga REddy

... Petitioner

AND

The State represented by the Principal Secretary,
Panchayat Raj & Rural Development Department,
Government of Andhra Pradesh, Secretariat, Hyderabad
And others

... Respondents

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WRIT PETITION No.18997 of 2006

ORDER:

The petitioner unsuccessfully contested election for the office of Member of Mandal Parishad Territorial Constituency (MPTC) of Akaveedu-I on 28.1.2006. Respondent No.5 contested the election and got elected. The petitioner alleges that by that date, petitioner is holding office of sarpanch of Akaveedu Gram Panchayat and, therefore, incurred disqualification under Section 156(2) read with 19(1)(h) of Andhra Pradesh Panchayat Raj Act, 1994 (the Act, for brevity). He made representation to second respondent, in vain. Petitioner then filed writ petition seeking a writ of Mandamus declaring that the fifth respondent is disqualified as President of Mandal Parishad, Racherla.

The writ petition is filed seeking disqualification of fifth respondent as President of Mandal Parishad, Racherla. Such a writ petition would not lie having regard to Article 243-O of Constitution of India and Section 233 of the Act. Secondly in the counter affidavit filed by third respondent, it is stated that after election as MPTC Member on 29.6.2006, fifth respondent submitted resignation on 17.7.2006 to the office of Sarpanch and the same was accepted. This aspect of the matter is not denied in the reply affidavit. When it is alleged that though fifth respondent resigned as Sarpanch, he did not handover the records to Upa-sarpanch and, therefore, he continues to incur disqualification. The submission cannot be accepted. When once the resignation of fifth respondent is accepted, for the reason that records are not handed over, he cannot incur disqualification. For such alleged negligence in not handing over records, the District Collector may conduct enquiry and take necessary action. When the petitioner is challenging the election of fifth respondent as President, Mandal

Parishad, Racherla, based on alleged disqualification, his remedy is in approaching the Election Tribunal, which may decide the issue independently without in any manner influenced by the observations made herein above.

The writ petition is misconceived and is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

April 27, 2007.
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